

REMARKS

The Non-Final Office Action, mailed December 5, 2007, considered claims 3-7, 15, 37, 39, 40, 44-47, 50, 58, 64-76 and 78. Claims 3-7, 15, 37, 39, 40, 44-47, 50, 58, 64-76 and 78 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schein et al. (US Patent No.: 6,388,714) in view of Klosterman (US Patent No.: 5,550,576).

By this paper, claims 50 and 58 have been cancelled and new claims 79 and 80 have been added, such that claims 3-7, 15, 37, 39-40, 44-47, 64-76, 78-80 remain pending, of which claims 37 and 44 are the only pending independent claims. Support for the new claims is found in at least paragraphs [0133]-[0135] of the application, as originally numbered.

As previously noted, the method recited in claim 37 is directed to an embodiment in which a server that communicates over a network with a recording apparatus remotely controls the recording of one or more selected television programs by the recording apparatus. The server stores both a programming schedule, as well as recording control information that can be used to record the program (including at least one record command).

Upon request, the server provides a user Internet access to the programming schedule in the form of a navigable webpage and from which a particular television program can be selected by the user for recording. Once the program is selected, and the server receives the selection, the server transmits the recording instructions that are configured to cause the recording apparatus to record the particular television program and such that the recording apparatus will thereafter be set up to record the particular television program. These recording instructions are transmitted to the recording apparatus from the server through at least one of a television signal and the Internet.

While most of the following remarks are directed specifically to claim 37, it will be noted that the other independent claim, claim 44, recites a related method to the method recited in claim 37. However, rather than being recited from the perspective of the server, as claim 37 is, the method recited in claim 44 is recited from the perspective of the recording system or apparatus.

In the last rejection, all of the claims were rejected in view of Schein and Klosterman. Applicants respectfully submit, however, that Schein and Klosterman clearly fail to teach or suggest all of the recited claim limitations and fail, therefore to either anticipate or render the claims obvious. For example, Schein and Klosterman clearly fail to teach or suggest any

embodiment in which a 'server stores a record command that is transmittable over a network to a recording apparatus', as required. Schein Figure 14 was cited for purportedly this teaching this limitation. However, while it is not entirely clear which portion of Figure 14 the Examiner is relying on, it does not appear as though Figure 14 of Schein (which includes Fig 14A thru 14E) teaches that a server stores a record command that is transmittable over a network to a recording apparatus as claimed. Figure 14A shows a program information menu 730 that includes a linked service option (7), which selectably links to a linked services menu 762 shown in Figure 14B and other embedded menus Fig 14C-14E. While the program menu 730 of Fig. 14A does include a "record this program" option (3), there is nothing to suggest that this menu is provided by a remote server that stores recording commands to be transmitted over a network from the server to the client's recording apparatus, as generally required by the claims of the pending application.

Next, it is noted that neither Schein nor Klosterman disclose nor fairly suggest the claimed limitation of a server receiving a user selection of a program to record. Instead, and to the contrary, the embodiments of Schein and Klosterman both appear to suggest that it is the local client system that receives the user input to record programming. They do not disclose that it is a server that is connected to the client system through a network that receives the recording requests. The Examiner refers generally to Figure 17 as teaching this limitation. However, it is unclear what the Examiner is specifically referring to since Figure 17 includes Figures 17 A-17F and since these figures are generally directed to accessing linked services to a program to purchase related products. ("FIGS. 17A-17F illustrate a representative system and method for contextually linking related items and services to a particular program in the program guide 702." And "FIGS. 17C-17F illustrate a case in which the viewer has selected purchasing a Washington Redskin cap." Col. 20, ll. 16-19 and 35-37). Despite this ambiguity, it is respectfully submitted that neither reference discloses that a user request to record a program is received by a server that is connected to the client system through a network.

It is also clear that Schein and Klosterman both fail to disclose or suggest the limitation of a server transmitting recording instructions over a network to a recording apparatus in response to a user selecting a program to be recorded from an Internet webpage, and as claimed. Initially, it is noted that it is generally acknowledged by the Examiner that Schein fails in this regard, by stating that Schein "fails to particularly disclose the server transmitting recording

control information to the recording apparatus in response to the selection as specified." To compensate for the clear inadequacy of Schein, the Examiner refers generally to Klosterman Figures 1-4 for teaching the "technique of transmitting the recording control information comprising recording instructions". Applicants respectfully disagree with this purported teaching or inference.

While Klosterman does generally disclose techniques for merging program guide information from multiple sources and for tuning to selected programming and for recording selected programming from the merged program guide, Klosterman does not ever teach or fairly suggest that recording instructions are transmitted from a server to a recording apparatus, and particularly when considering that the recording instructions must be configured to cause the recording apparatus to record a particular program. The Examiner appears to suggest that the claimed recording instructions are analogous to Klosterman's source ID, Channel and time information. However, Applicants disagree. Klosterman's source ID, channel information and time information are merely program guide information. They are not the recording instructions that cause a recording apparatus to record a program. If the art is to be read and interpreted so broadly, it would mean that every system that receives source ID, channel and time information causes the receiving system to record the television programming corresponding to that information. Certainly, that is not the case.

As stated in Klosterman, it is the coordinator that is local to the client system that causes the recording to occur in response to user input received at the client system, not recording instructions received from a server. In particular, the coordinator checks the beginning and end time of a program selected to be recorded and causes the VCR to record the program accordingly. Notably, Klosterman's system never receives recording instructions from a server that cause the recording of the program. Instead, Klosterman's own system monitors when a program is to be recorded and records that program when it is broadcast, just like many other existing prior art systems. Klosterman is different than the other systems, however, because Klosterman provides controls for switching between different sources identified in a merged program guide and for merging program information from multiple sources into a merged program guide.

For at least the foregoing reasons, Applicants respectfully submit that the pending claims are distinguished from the cited art of record and such that it is not necessary to individually

address each and every rejection and assertion on the merits. This should not be construed as Applicant acquiescing to any of the purported rejections or teachings of the cited art, however. In fact, it will be noted that there are many other limitations that further distinguish the claims from the cited art, including, but not limited to those found in the dependent claims, some of which will now be provided by way of example.

In claim 73, for example, an embodiment is recited that requires "end of VCR" information to be transmitted from the server to the recording apparatus. While this claim was rejected, it is not entirely what the rejection is or what the Examiner is relying on in rejecting this claim. New claims 79 and 80 also claim related embodiments in which "about to send VCR control information data" is transmitted and in which "VCR control information" is transmitted. Clearly these embodiments are neither taught nor suggested by the cited art since none of the cited art teaches of transmitting recording instructions comprising VCR control information from a server to a client.

Claim 75 recites an embodiment in which the recording instructions are received as a binary ASCII-format character string that is assigned specific control functions. The Examiner appears to suggest this is obvious in view of digital signaling. However, it is unclear where in the cited art any teaching or suggestion exists for a server transmitting even a digital signal comprising a recording instruction having specific control functionality. It is also asserted that digital signaling does not render a binary ASCII-format character string having specific recording control functionality obvious.

It is also noted that with specific regard to claims 40 and 47, that the recording instructions must be received in response to a program being selected for recording, not before, merely as part of a program guide. Accordingly, while recording instructions can include some time, date and duration information, the recording instructions are not the same set of information that is received within the program guide information prior to a program being selected for recording. The recording instructions that are transmitted from the server must also include a record command according to claim 45.

With specific regard to claim 67, it is noted that a user password is required to access the program guide homepage. However, it is not clear which element in the cited art the Examiner is suggesting teaches this limitation, since the Examiner merely indicates that this is obvious in

view of logging in. This is another claim that distinguishes from the disclosure provided in the cited art.

Finally, it is noted that claim 78 requires that recording instructions be transmitted through the Internet. The Examiner refers to element 606 of Schein. However, this element merely identifies the Internet *per se*. There is no mention in Schein of recording instructions being transmitted over the Internet, as more broadly acknowledged in the Examiner's statement that Schein "fails to particularly disclose the server transmitting recording control information to the recording apparatus in response to the selection as specified." Even more particularly, if Schein fails disclose the transmission of recording control information having the recording instructions then Schein certainly cannot be interpreted as disclosing the transmission of the recording instructions over the Internet.

For at least these reasons, as well as others previously presented to the Examiner, Applicant respectfully submits that the pending claims are distinguished from the cited art of record and are in condition for allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 7th day of April, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick D. Nydegger", with a stylized, cursive script.

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